

Committee on Ways and Means

The Pension Protection Act of 2006

Detailed Summary of Charitable Provisions

OVERVIEW

The bill contains a charitable giving incentives package and a charitable reform package. It is important to note that the bill does not contain controversial Senate charitable reform provisions that have drawn bipartisan concern, such as the mandatory payout requirements applicable to donor advised funds and supporting organizations and the 100 percent excise tax on certain life insurance contracts in which a charitable organization has an interest.

CHARITABLE GIVING INCENTIVES

The bill contains a charitable giving incentives package designed to encourage charitable donations.

1. Tax-Free Distributions From IRAs for Charitable Purposes

The provision provides an exclusion from gross income for certain distributions of up to \$100,000 from a traditional individual retirement account (IRA) or a Roth IRA, which would otherwise be included in income. To qualify, the charitable distribution must be made to a tax-exempt organization to which deductible contributions can be made. The provision is effective for two years through 2007.

2. Charitable Deduction for Contributions of Food Inventory

For donations of food inventory, the provision extends for all trades and businesses an enhanced deduction equal to the lesser of (i) the taxpayer's basis plus one-half of the difference between fair market value and basis, and (ii) twice the taxpayer's basis in the contributed inventory. The provision is effective for two years through 2007.

3. Basis Adjustment to Stock of S Corporation Contributing Property

The provision provides that the amount of a shareholder's basis reduction in the stock of an S corporation, by reason of a charitable contribution made by the corporation, will be equal to the shareholder's pro rata share of the adjusted basis of the contributed property. The provision is effective for two years through 2007.

4. Charitable Deduction for Contributions of Book Inventory

The provision extends the current-law provision that adds public schools to the list of eligible donees for the enhanced deduction for contributions of qualified book inventory by C corporations. The provision is effective for two years through 2007.

5. The Tax Treatment of Certain Payments to Controlling Exempt Organizations

Under current law, rent, royalty, annuity, and interest income paid to a tax-exempt organization by a controlled taxable subsidiary is generally treated as unrelated business income, which is taxable to the tax-exempt parent organization. The provision provides that payments received or accrued by certain exempt parents from taxable controlled subsidiaries will not be treated as unrelated business taxable income. Exempt organizations are required to report certain amounts received from controlled organizations. The provision is effective for two years through 2007.

6. Qualified Conservation Contributions

The provision raises the charitable deduction limit from 30 percent of adjusted gross income to 50 percent of adjusted gross income for qualified conservation contributions, provided that such contribution does not prevent the use of the donated land for farming or ranching purposes. The charitable deduction limit is raised to 100 percent of adjusted gross income for eligible farmers and ranchers. The provision allows a taxpayer to carryforward the deduction for 15 years, provided that the taxpayer is a farmer or rancher in the year of the carryforward. The provision is effective for two years through 2007.

7. Excise Tax Exemption for Blood Collector Organizations

The provision provides that certain blood collector organizations are exempt from certain excise taxes with respect to activities related to blood collection.

CHARITABLE REFORM

The bill contains a charitable reform package designed to responsibly regulate exempt organizations.

1. Treasury Report on Certain Life Insurance Contracts

Charitable organizations must report to the Secretary certain acquisitions of interests in certain insurance contracts for two years beginning on the date of enactment. The Secretary is required to issue a report within 30 months after the date of enactment examining if acquisitions of applicable insurance contracts is consistent with the tax-exempt purposes of those charitable organizations that acquire such contracts.

2. Fines and Penalties Applicable to Charitable Organizations

The provision doubles the amount of excise taxes applicable to certain activities by charities, social welfare organizations, private foundations and exempt organization managers.

3. Charitable Contributions of Facade Easements

Under the provision, a charitable deduction is allowed with respect to easements concerning buildings located in a registered historic district. The easement must provide that no portion of the exterior of the building may be changed or altered in a manner inconsistent with the historical character of the exterior. The provision also clarifies that the charitable deduction is reduced if a rehabilitation tax credit has been claimed with respect to the donated property.

4. Taxidermy and Substantiation of Exempt Use Property

The provision limits the basis for donated taxidermy property to the cost of preparing, stuffing and mounting an animal. The value of the deduction would be equal to the lesser of basis or fair market value.

5. Recapture of Tax Benefit for Charitable Contributions of Exempt Use Property Not Used for an Exempt Use

The provision provides for the recovery of the tax benefit derived from the contribution of property with respect to which a fair market value deduction was claimed if the property is not used for an exempt purpose of the donee organization.

6. Clothing and Household Items

The provision specifies that no deduction is allowed for charitable contributions of clothing and household items if such items are not in good used condition or better. In addition, the Secretary may deny a deduction for any item with minimal monetary value.

7. Modification of Recordkeeping Requirements for Certain Charitable Contributions

The provision requires that in the case of a charitable contribution of money, regardless of the amount, the donor must maintain a cancelled check, bank record or receipt from the donee organization showing the name of the donee organization, the date of the contribution, and the amount of the contribution.

8. Partial Interest in Donated Property

The provision requires that charities receiving a fractional interest in an item of tangible personal property must take complete ownership of the item within 10 years or the death of the donor, whichever is first. In addition, the donee must have (i) taken possession of the item at least once during the 10-year period as long as the donor remains alive, and (ii) used the item for the organization's exempt purpose. Failure to comply with these requirements results in the recapture of all tax benefits plus interest and the imposition of a 10 percent penalty.

9. Appraisal Reform

The provision lowers the thresholds for imposing accuracy-related penalties on a taxpayer who claims a deduction for donated property for which a qualified appraisal is required. The provision also applies for purposes of estate tax appraisals and provides definitions of a qualified appraiser and qualified appraisals.

10. Credit Counseling

The provision imposes certain requirements on tax-exempt organizations that offer credit counseling services, subject to a four-year transition rule to limit the allowable amount of debt management plan (DMP) income to 50 percent of revenues. In order to stem abusive situations,

the provision imposes restrictions on organizations offering credit counseling services with respect to loans, fees, and solicitation of contributions from consumers receiving counseling.

11. Private Foundation Net Investment Income Excise Tax

The provision amends the definition of gross investment income to include capital gains, notional principal contracts, annuities, and other substantially similar investment income.

12. Convention or Association of Churches

The provision clarifies the definition of a convention or association of churches.

13. Notification Requirement for Exempt Organizations

The provision requires certain exempt organizations to file an annual notice with the IRS containing basic contact and financial information. The requirement applies to organizations that currently do not have an annual filing requirement because their gross receipts are less than \$25,000.

14. Encourage IRS Information-Sharing with State Charity Officials

This provision provides that upon written request by an appropriate state official, the Secretary may disclose information regarding organizations for which the IRS has denied or revoked tax-exempt status, certain other actions the IRS may have taken, and returns filed by tax-exempt organizations.

15. Public Disclosure of Information Relating to Unrelated Business Income Tax Returns

The provision extends the present-law public disclosure requirements applicable to Form 990 to the unrelated business income tax returns of Section 501(c)(3) organizations.

16. Treasury Study on Donor-Advised Funds and Supporting Organizations

The Secretary will undertake a study on the organization and operation of donor-advised funds and of supporting organizations. The study will include an examination of requirements for determining if such organizations are operating in a manner consistent with the purposes or functions constituting the basis for their tax-exempt status.

17. Improved Accountability for Donor-Advised Funds and Supporting Organizations

The provision applies an excess benefits transaction tax on any grant, loan, compensation or other similar payments from a donor-advised fund to a person that with respect to such fund is a donor, donor adviser, or a related person, and from a supporting organization to a substantial contributor or a related person. The provision imposes excess business holdings rules on donor-advised funds and Type III supporting organizations. Transition rules apply to the present holdings of donor-advised funds and supporting organizations. Supporting organizations that are functionally integrated with their charity would not be subject to any excess business holdings rules.